

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THE STATE OF NEW YORK,

Plaintiff,

-against-

**MEMORANDUM**

**11-CV-2599 (NGG) (CLP)**

THE UNITED STATES ARMY CORPS OF  
ENGINEERS; COLONEL CHRISTOPHER LARSEN,  
*in his official capacity as Division Engineer, North  
Atlantic Division of the United States Army Corps of  
Engineers*; THE UNITED STATES FISH AND  
WILDLIFE SERVICE; ROWAN W. GOULD, *in his  
official capacity as Acting Director of the United States  
Fish and Wildlife Service*; THE UNITED STATES  
NATIONAL PARK SERVICE; JONATHAN B.  
JARVIS, *in his official capacity as Director of the  
United States National Park Service*; THE UNITED  
STATES DEPARTMENT OF THE INTERIOR;  
KENNETH SALAZAR, *in his official capacity as  
Secretary of the United States Department of the  
Interior*; THE UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY; LISA JACKSON, *in her  
official capacity as Administrator of the United States  
Environmental Protection Agency*; THE DELAWARE  
RIVER BASIN; and CAROL COLLIER, *in her official  
capacity as Executive Director of the Delaware River  
Basin*,

Defendants,

-and-

AMERICAN PETROLEUM INSTITUTE;  
INDEPENDENT PETROLEUM ASSOCIATION OF  
AMERICA; and US OIL & GAS ASSOCIATION,

Putative Defendant-Intervenors.

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DAMASCUS CITIZENS FOR SUSTAINABILITY,  
INC.,

Plaintiff,

-against-

THE UNITED STATES ARMY CORPS OF  
ENGINEERS; COLONEL CHRISTOPHER LARSEN,  
*in his official capacity as Division Engineer, North  
Atlantic Division of the United States Army Corps of  
Engineers*; THE UNITED STATES FISH AND  
WILDLIFE SERVICE; ROWAN W. GOULD, *in his  
official capacity as Acting Director of the United States  
Fish and Wildlife Service*; THE UNITED STATES  
NATIONAL PARK SERVICE; JONATHAN B.  
JARVIS, *in his official capacity as Director of the  
United States National Park Service*; THE UNITED  
STATES DEPARTMENT OF THE INTERIOR;  
KENNETH SALAZAR, *in his official capacity as  
Secretary of the United States Department of the  
Interior*; THE UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY; LISA JACKSON, *in her  
official capacity as Administrator of the United States  
Environmental Protection Agency*; THE DELAWARE  
RIVER BASIN; and CAROL COLLIER, *in her official  
capacity as Executive Director of the Delaware River  
Basin*,

Defendants,

-and-

AMERICAN PETROLEUM INSTITUTE;  
INDEPENDENT PETROLEUM ASSOCIATION OF  
AMERICA; and US OIL & GAS ASSOCIATION,

Putative Defendant-Intervenors.  
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**MEMORANDUM**

**11-CV-3857 (NGG) (CLP)**

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DELAWARE RIVERKEEPER NETWORK; THE  
DELAWARE RIVERKEEPER; RIVERKEEPER,  
INC.; THE HUDSON RIVERKEEPER; and  
NATIONAL PARKS CONSERVATION,

Plaintiffs,

-against-

THE UNITED STATES ARMY CORPS OF  
ENGINEERS; COLONEL CHRISTOPHER LARSEN,  
*in his official capacity as Division Engineer, North  
Atlantic Division of the United States Army Corps of  
Engineers*; THE DELAWARE RIVER BASIN  
COMMISSION; and CAROL COLLIER, *in her official  
capacity as Executive Director of the Delaware River  
Basin Commission*,

Defendants,

-and-

AMERICAN PETROLEUM INSTITUTE;  
INDEPENDENT PETROLEUM ASSOCIATION OF  
AMERICA; and US OIL & GAS ASSOCIATION,

Putative Defendant-Intervenors.

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NICHOLAS G. GARAUFIS, United States District Judge.

The State of New York and several non-governmental actors (collectively “Plaintiffs”) filed the above-captioned actions, which the court has consolidated for pre-trial purposes (Docket Entry dated Aug. 10, 2011). Plaintiffs are suing the Delaware River Basin Commission (the “DRBC”), the United States Army Corps of Engineers, and—in two of the three actions—several other United States government agencies (collectively, the “Federal Defendants”). Plaintiffs seek declaratory and injunctive relief requiring the DRBC and the Federal Defendants

to follow the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (“NEPA”) by preparing an environmental impact statement (“EIS”) before the DRBC approves any regulations permitting extraction of natural gas through hydraulic fracturing (“hydrofracking”).

Plaintiff State of New York alleges that hydrofracking in the Delaware River Basin could have a significant impact on the New York City Watershed. (See New York Am. Compl. (Docket Entry # 51) ¶¶ 63-74.) The State alleges that the environmental impact on the watershed could be such that the City of New York might be forced to filter the water it obtains from the Delaware River Basin. (Id. ¶ 70.) Because the State alleges that the actions Defendants are contemplating could cause the City of New York to expend public money in creating and implementing a filtration system for water it obtains from the River Basin, the court wishes to give the City the opportunity to be heard in these actions. Therefore, the court invites the City of New York to participate in these consolidated actions as amicus curiae, beginning with the conference currently scheduled for December 13, 2011. This memorandum shall be communicated to the City by facsimile to the Office of the Corporation Counsel of the City of New York and to the Commissioner of the New York City Department of Environmental Protection.

SO ORDERED.

Dated: Brooklyn, New York  
December 12, 2011

/s/ Nicholas G. Garaufis  
NICHOLAS G. GARAUFIS  
United States District Judge